

(1) Include a completed application for participation;

(2) Include records of all actions taken to correct deficiencies in the eligibility determination procedures; and

(3) Show compliance with section 504 of the Act.

(e) A participant determined to be ineligible shall immediately be terminated.

(f) A Native American grantee may enter into an agreement with a State employment security agency (SESA) or other independent agency or organization as may be approved by the Department, for the verification of applicant eligibility within 45 days of enrollment. The Native American grantee shall monitor such verification procedures to ensure that erroneous verifications are not made deliberately or with insufficient care.

(g) Participants may be transferred from one JTPA program to another, from one Native American grantee to another, from a Native American grantee to a SDA grant recipient, from a SDA grant recipient to a Native American grantee, or concurrently enrolled in programs sponsored by Native American grantees or SDA grant recipients, provided, except for age requirements, they were eligible for the subsequent or concurrent program when they were first enrolled.

(h) Eligibility determinations for each program shall be made at the time of application. Applicants determined eligible may be enrolled as participants within 45 days of the date of the application without an update of the information on the application provided they did not obtain full-time permanent unsubsidized employment in the interim. This provision does not apply to the title II-B program.

(i) Aliens described in section 167(a)(5) of the Act and who otherwise meet the eligibility requirements for programs under this part, may participate in a program if this is permitted by Indian law or the Native American grantee.

§ 632.78 Training activities.

Native American grantees shall design and operate programs funded under the Act which support growth and development as determined by rep-

resentatives of the Indian and Native American communities and groups served (sec. 401(a)). Training shall be only for occupations for which there is a demand in the area served or in another area to which the participant is willing to relocate, and consideration in the selection of training programs may be given to training in occupations determined to be in sectors of the economy which have a potential for sustained demand or growth. The CAP will provide evidence based on local labor market information that occupational demand exists for planned training. The basic types of training activities available to Native American grantees, subgrantees and contractors include, but are not limited, to the following:

(a) *Classroom training.* This program activity is any training of the type normally conducted in an institutional setting, including vocational education, and designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. It may be coupled with other employment and training activities and may also include training designed to enhance the employability of individuals by upgrading basic skills, through the provision of courses such as remedial education, GED, training in the primary language of persons with limited English-speaking proficiency, or English-as-a-second-language training.

(b) *On-the-job training.* (1) On-the-job training (OJT) is training in the private or public sector given to a participant, who has been hired first by the employer, and which occurs while the participant is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job. This does not preclude a participant who has been hired by and received OJT from one employer from being ultimately placed with another employer. Innovative approaches to financing, particularly involving the sharing of training costs by the private sector are to be encouraged.

(2) OJT may be coupled with other JTPA employment and training activities. As needed, OJT participants may receive any of the employment and

training services or supportive services through the system, through community resources, or through employer resources.

(3) *Reimbursement.* Payments to employers for OJT which shall not, during the period of such training, average more than 50 percent of the wages excluding fringe benefits paid by the employer to such participants, and payments in such amount shall be deemed to be in compensation for the extraordinary costs associated with the training costs and lower productivity of such participants. No direct wage payments will be made to OJT participants by the Native American Grantee.

(4) *OJT agreements.* Employers will be held responsible with respect to JTPA costs only in accordance with the provisions of their OJT agreements. At a minimum, the OJT agreement shall contain the elements listed below. Native American grantees may place additional provisions in the OJT agreement only after a careful assessment is made of the additional burdens imposed on participating employers. Agreements may be entered into only with employers which have not been seriously deficient in their conduct of or participation in any DOL program. Each OJT agreement shall contain:

- (i) A brief training outline, including the length of training and the nature of the training;
- (ii) The method and maximum amount of reimbursement for OJT training costs;
- (iii) The number of participants to be trained;
- (iv) Job descriptions and specification of participant wage rates;
- (v) Reporting requirements;
- (vi) An assurance that payroll records, time and attendance records, job duties and documentation of classroom training, employment and training services, or supportive services, costs for which the employer is being reimbursed will be subject to review;
- (vii) A termination clause for non-performance; and
- (viii) An assurance that the employer will comply with the Act and regulations.

(c) *Tryout employment.* Tryout employment in private-for-profit work-sites may be conducted in accordance

with section 205(d)(3)(B) of the Act (sec. 141(K)).

(d) *Training assistance.* Such assistance includes:

- (1) Orientation to the world of work;
- (2) Counseling. This includes employment and training related counseling and testing;
- (3) Job development;
- (4) Job search assistance. This includes transition services, such as job seeking skills instruction, individualized job search plan, labor market information, and other special activities for transition to unsubsidized employment;
- (5) Job referral and placement; and
- (6) Vocational Exploration Program (VEP). A Native American grantee may conduct a VEP program to expose participants to jobs available in the private sector through observation of such jobs, instruction, and, if appropriate, limited practical experience.

(e) *Combined activities.* (1) A participant may be simultaneously or sequentially enrolled in two or more activities.

(2) (i) Reimbursement may be up to 100 percent to employers, including private-for-profit employers, for expenditures for the costs of classroom training, employment and training assistance or supportive services for participants in combined activities including the costs of participants' wages paid by the employer for time spent in these activities during working hours.

(ii) Reimbursement may be made on a cost reimbursement or fixed cost basis and shall be supported by business receipts, payroll, or other records normally kept by the employer.

(iii) Nothing in this paragraph (b)(1) shall allow reimbursement to private-for-profit employers for the costs of OJT to exceed the amounts allowable in § 632.78.

§ 632.79 Employment activities.

(a) *Community service employment (CSE).* Community Service Employment is the type of work normally provided by government and includes, but is not limited to, work (including part-time work) in such fields as environmental quality, child care, health care,